

HOUSE BILL 39

By Lamberth

AN ACT to amend Tennessee Code Annotated, Title 39 and Title 53, relative to products containing dextromethorphan.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 17, Part 4, is amended by adding the following as a new, appropriately designated section:

(a) It is an offense for:

(1) Any commercial entity, or the entity's employee or representative acting on behalf of the entity, to knowingly sell a product containing dextromethorphan to a person that the employee or representative knows or has reason to know is less than eighteen (18) years of age and is not an emancipated minor, as defined in § 39-11-106; or

(2) Any person who is less than eighteen (18) years of age and who is not an emancipated minor, as defined in § 39-11-106, to knowingly purchase a product containing any quantity of dextromethorphan.

(b)

(1) This section requires an entity, employee, or representative to manually obtain and verify proof of age or emancipation pursuant to subsection (c) as a condition of sale. Nothing in this section shall be construed to require additional compliance requirements, including placement of products in a specific place within a store, other restrictions on consumers' direct access to products, or the maintenance of transaction records.

(2) This section shall not apply to a product containing dextromethorphan that is sold pursuant to a valid prescription, including a pharmacist-generated prescription issued pursuant to § 63-10-206.

(c) Before completing a retail sale of a product containing dextromethorphan, the seller shall require the purchaser to present:

(1) Valid government-issued photo identification proving that the purchaser is at least eighteen (18) years of age, unless from the purchaser's outward appearance the seller would reasonably believe the purchaser to be thirty-five (35) years of age or older; or

(2) Proof of emancipation, if the purchaser is less than eighteen (18) years of age but is an emancipated minor.

(d)

(1) A violation of subdivision (a)(1) is a Class B misdemeanor, punishable by a minimum of:

(A) A one hundred dollar (\$100) fine upon a first offense; or

(B) A five hundred dollar (\$500) fine upon a second or subsequent offense.

(2) A violation of subdivision (a)(2) is a delinquent act.

SECTION 2. This act shall preempt any local ordinance regulating the retail sale of products containing dextromethorphan enacted by a local governmental entity of this state. Products containing dextromethorphan shall not be subject to further regulation by a local governmental entity.

SECTION 3. This act shall take effect July 1, 2015, the public welfare requiring it.